

# SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN FRANCISCO

### **Document Scanning Lead Sheet**

Jan-31-2018 2:25 pm

Case Number: CGC-18-563997

Filing Date: Jan-31-2018 2:22

Filed by: NEYL WEBB

Image: 06200517

COMPLAINT

FRED GLICK ET AL VS. AIRBNB ET AL

001C06200517

### Instructions:

Please place this sheet on top of the document to be scanned.

SUM-100

### SUMMONS (CITACION JUDICIAL)

**BY FAX** 

FOR COURT USE ONLY (SOLO PARA USO DE LA CORTE)

NOTICE	то	DEF	END	ANT:
(AVISO	AL I	DEMA	ANDA	ADO):

AIRBnB; Katia De La Péna; and and Does 1 through 100 inclusive

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

Fred Glick and Jonitha Glick

NOTICEI You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There mey be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you mey lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcelifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. [AVISOI Lo han demandado. Si no responde dentro de 30 dles, la corte puede decidir en su contra sin escuchar su versión. Lea la información e continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citeción y papeles legales para presentar una respuesta por escrito en esta corte y hecer que se entregue une copia al demandante. Una certa o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal corracto si desea que procesen su caso en la corte. Es posible que haye un formulario que usted pueda user para su respuesta. Puede encontrer estos formularios de la corte y más información en el Centro de Ayuda de las Cortas de Celifornia (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerce. Si no puede pagar la cucta de presentación, pida al secretario de la corte que le dá un formulario de exención de pago de cuotas. Si no presenta su respueste e tiempo, puede perder el caso por incumplimiento y la corte le podrá quiter su sueldo, dinero y bienes sin más advertencie.

Hey otros requisitos legeles. Es recomendable que llame e un abogado inmedietemente. Si no conoce a un abogado, puede llamar a un servicio de remisión a ebogados. Si no puede pagar e un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrer estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de les Cories de Celifornia, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho e reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuparación de \$10,000 ó más de velor recibide mediante un acuerdo o una concesión de erbitraje en un caso de derecho civil. Tiene que pagar el gravemen de la corte antes de que la corte pueda desechar el caso.

cualquier recuparación de \$10,000 ó más de velor recibide medianie un acuerdo o una pagar el gravemen de la corte antes de que le corte pueda desechar el ceso.	a concesión de erbitraje en un caso de derecho civil. Tiene que			
The name and address of the court is:	CASE (Númelia di Gra):- 18-563997			
(El nombre y dirección de la corte es): SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN	(ivumena degrologo): 1 C 3 C 3 9 9 7			
FRANCISCO				
400 McAllister Street, San Francisco, CA 94102				
The name, address, and telephone number of plaintiff's attorney, or plaintiff with	thout an attorney is:			
(El nombre, la dirección y el número de teléfono del abogado del demandante, Steven H. Schultz, Esq. (Bar # 163543)	o del demandante que no tiene abogado, es):			
Steven H. Schultz, Esq. (Bar # 163543)	Fax No.: (916) 922-1921			
Law Office of Steven H. Schultz	Phone No.: (916) 922-2310			
701 Howe Avenue, Suite A3, Sacramento, CA 95825 DATE: Clerk, by	Deputy			
DATE: (Fecha) IAN 31 2018 Clerk of the Coun (Secretaris				
(For proof of service of this summons, use Proof of Service of Summons (form POS-019).)				
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, (POS-010)).				
NOTICE TO THE PERSON SERVED: You are	e served			
1. as an individual defendant.				
2. as the person sued under the fictitious name of (specify):				
an behalf of (opposite)				
3 on behalf of (specify):				
under: CCP 416.10 (corporation)	CCP 416.60 (minor)			
CCP 416.20 (defunct corpor	ration) CCP 416.70 (conservatee)			
OF SAN FRAME CCP 416.40 (association or				
other (specify):				
4. by personal delivery on (date):				

## OF'GINAL

	II.				
1	LAW OFFICE OF STEVEN H. SCHULT	$\mathbf{Z}$			
2	STEVEN H. SCHULTZ, Esq., State Bar No. 701 Howe Avenue, Suite A-3				
3	Sacramento, California 95825 Telephone: (916) 922-2310	FILED San Francisco County Superior Court			
4	Facsimile: (916)922-1921	JAN <b>3</b> 1 2018			
5	Attorney for Plaintiff's	CLERK OF THE COURT			
6	_	BV: ////			
7		Deputy Clerk			
8	SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO				
9					
10	FRED GLICK and JONITHA GLICK,	CASE NO. CGC - 18 - 563997.			
11	Plaintiff,	COMPLAINT FOR DAMAGES (GENERAL NEGLIGENCE; PREMISE			
12	·				
13	VS.	LIABILITY; DANGEROUS CONDITION OF PROPERTY; and LOSS OF			
14	AIRBnB; KATIA DE LA PENA; and DOES 1 through 100 inclusive,	CONSORTIUM)			
15	,	[AMOUNT EXCEEDS \$25,000]			
16	Defendants.				
17					
18	FIRST CAUSE OF ACTION (GENERAL NEGLIGENCE; PREMISE LIABILITY; DANGEROUS CONDITION OF				
19					
20	COMES NOW plaintiff's FRED GLICK and JONITHA GLICK and allege as and for a				
21	first cause of action against defendants, AIRBnB; KATIA DE LA PENA; and DOES 1 through				
22	100, inclusive, and each of them as follows:				
23					
24	1. At all times mentioned herein plaintiff's were residents of the County of Santa Clara,				
25	State of California.				
26	2. At all times mentioned herein, defendar	nts AIRBnB; and DOES 1 through 100, inclusive,			
27	were public entities, business entities and/or corporations, doing business in the State of				
28	-	, , , , , , , , , , , , , , , , , , , ,			

California, County of San Francisco.

- through 100, inclusive, are presently unknown to plaintiffs who therefore sues said defendants by such fictitious names, pursuant to Code of Civil Procedure §474.

  Plaintiff's are informed and believe and thereon allege that the fictitiously named defendants, and each of them, are negligently or in some manner legally responsible to plaintiff's for the events and happenings herein referred to and proximately caused damages to plaintiff's as set forth herein. Plaintiff's will seek leave of court to amend this complaint to insert the true names and capacities of said fictitiously named defendants, and each of them, when the same have been ascertained.
- 4. Plaintiff's are informed and believe and thereon allege that each of the defendants was the agent, partner, joint venturer, co-conspirator, lessor, lessee, and/or employee of each of the remaining defendants, and others named herein as DOE defendants, and in doing the acts or things alleged herein were acting within the course and scope of said agency, employment and/or other relationship stated herein.
- 5. The Plaintiff's rented a home through defendant AIRBNB owned by defendant KATIA DE LA PENA, in Cortegena, Columbia from 2/19/16-2/23/16. The Plaintiff's used the defendant's website, and relied on the defendant's selection of properties to be safe and free of dangers/defects.
- 6. On or about 2/20/2016, plaintiff's were on vacation in Cartagena, Columbia, in the home they rented from the defendants. At this property there was an unmarked sunlight on the roof, in the area of a roof top lounge/seating area. The Plaintiff while taking pictures from the roof top, did not see this sunlight, and stepped onto this area which later was

found to be plexiglass, and fell through this section 3 stories onto a chest of drawers and then a marble floor, causing him, serious and permanent injuries and damages.

- 7. Defendants, and each of them, owed a duty to plaintiff to make the subject property safe, for ordinary and foreseeable use, and to make sure no dangerous, unmarked areas existed, and/or to screen/inspect that the rental was in a safe condition for tenants and/or visitors and not dangerous.
- 8. Defendant's, and each of them, knew and/or should have known that the subject rental had an unmarked area that was actually an opening/hole in the roof, for an extended time and/or was in an unsafe and dangerous condition. Defendant's and each of them also failed to use due diligence in inspecting and maintaining the subject rental home; ensuring the home was safe for customers; and/or providing warnings regarding the subject property.
- 9. At all times mentioned herein, defendants, and each of them, did so negligently, carelessly and wrongfully place, position, manage, maintain, and/or provide warnings for said property, so as to make the rental home dangerous and defective, all of which caused injuries and/or damages to the plaintiff as set forth below.
- 10. As a proximate result of the negligence, carelessness and wrongdoing of defendants, and each of them plaintiff FRED GLICK, was injured in his health, strength and activity and sustained grievous injury to his body and profound shock and injury to his person and nervous system, and numerous other physical injuries, all of which injuries resulted in great mental, physical and nervous pain and suffering. Said injuries will result in some permanent disability to plaintiff, all to his general damage in a sum as yet uncertain, in excess of the minimum jurisdiction of this court. Plaintiff will seek leave of court to

plead and prove their general damages, according to proof at time of trial, together with interest and/or prejudgment interest thereon at the legal lawful rate.

- 11. As a further direct and proximate result of the negligence, carelessness and wrongdoing of defendants, and each of them, plaintiff FRED GLICK, has been in the past, and will be required in the future, to employ physicians, surgeons and other treaters to examine, treat, and care for him. The exact amount of said expenses are unknown to plaintiff and plaintiff will seek leave of court to plead and prove the exact amount of said expenses at time of trial, according to proof.
- As a further direct and proximate result of the negligence, carelessness and wrongdoing of defendants, and each of them, plaintiff has been prevented from attending to his usual occupation, and/or has had his capacity to engage in gainful employment diminished, all to his damages in an unknown amount at this time. Plaintiff will seek leave of court to plead and prove the amount of lost income according to proof at time of trial.
- As a further direct and proximate result of the negligence, carelessness and wrongdoing of defendants, and each of them, plaintiff has incurred incidental and/or consequential damages, all in an amount unknown at this time. Plaintiff will seek leave of court to plead and prove the amount of lost income according to proof at trial, together with interest and/or pre-judgment interest thereon at the legal lawful rate.
- 14. Plaintiff will further seek pre-judgment interest on all items of damages, including economic and non-economic damages. These will include, but are not limited to, past future medical expenses, any lost wages, and any and all incidental expenses and compensatory damages as permitted by law.

WHEREFORE, plaintiff's pray for judgment against defendants, and each of them, as

hereinafter set forth.

### SECOND CAUSE OF ACTION (Loss of Consortium)

COMES NOW plaintiff JONITHA GLICK, and alleges as and for a Second Cause of Action, against all defendants, and each of them, as hereinafter set forth.

- 14. Plaintiff's refer to and incorporates by reference each and every paragraph of the First Cause of Action, as though fully set forth herein.
- 15. At all times relevant herein, FRED GLICK and JONITHA GLICK, plaintiffs herein, were legally married and were husband and wife.
- 16. As a further direct and proximate result of said wrongful conduct of defendants, and each of them, JONITHA GLICK has been, and will continue to be deprived of her husband's comfort, society and consortium, as a result of the injuries sustained as a direct and proximate conduct of the defendants, and each of them, as herein above set forth. The full nature and extent of damages for said loss are at this time uncertain, and therefore plaintiffs will seek leave of court to plead and prove the same when ascertained, together with prejudgment interest thereon at the legal, lawful rate.

WHEREFORE plaintiff's pray for judgment against defendants AIRBnB; DOE OWNER; and DOES 1 through 100, and each of them, as follows:

- General damages in excess of the minimum jurisdiction of this court, according to proof at trial;
- 2. Medical expenses, past and future, home health care expenses past and future, and incidental expenses, according to proof at trial;
- 3. Loss of past and future income and/or earning capacity, according to proof at

### 1 **PROOF OF SERVICE** (CCP Section 1013A) 2 I am a citizen of the United States, and employed in the County of Sacramento. I am over the age of eighteen (18) years, and not a party to the within above-entitled action. My business address 3 is 701 Howe Avenue, Suite A-3, Sacramento, CA 95825. I scrved: 4 CIVIL CASE COVER SHEET; SUMMONS and COMPLAINT 5 on each party listed herein below, via the following method: 6 x\_Via U.S. Postal Service and E-Mail. By depositing for collection and mailing, following ordinary business practices (I am familiar with the business practices of the Law Office of Steven H. Schultz 7 for collecting and processing mail, and know that the mail in said office is collected and processed so that this piece of mail was deposited with the United States Postal Service on the same date indicated 8 herein below), a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid. 9 Via Overnight Mail Service. By causing a true copy thereof, enclosed in a sealed envelope, to be delivered via the following overnight mail courier service: Federal Express 10 Via Facsimile. Pursuant to agreement of the parties named herein below, transmitting from 11 facsimile machine number 916-442-4118 to the facsimile numbers listed herein below, at am/pm, on the date indicated herein below. A transmission report was properly 12 issued by the sending facsimile machine, and the transmission was reported as complete and without error. (CRC 2008.) 13 Via Personal Delivery. By having personally delivered by office messenger a true copy thereof 14 enclosed in a sealed envelope, on the date indicated herein below. 15 16 17 I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on January 2018, at Sacramento, California. 18 19 20 fina M Echols 21 22 23 24 25 26 27

28

other parties to the action or proceeding.

• Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2 Form Adopted for Mandatory Use Judicial Council of California CM-010 [Rev. July 1, 2007]

other parties to the action or proceeding.

CIVIL CASE COVER SHEET

• If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all

#### INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that

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the case is complex.
Auto Tort
    Auto (22)-Personal Injury/Property
        Damage/Wrongful Death
    Uninsured Motorist (46) (if the
        case involves an uninsured
        motorist claim subject to
        arbitration, check this item
        instead of Auto)
Other PI/PD/WD (Personal Injury/
Property Damage/Wrongful Death)
Tort
    Asbestos (04)
        Asbestos Property Damage
        Asbestos Personal Injury/
             Wrongful Death
    Product Liability (not asbestos or
        toxic/environmental) (24)
    Medical Malpractice (45)
        Medical Malpractice-
             Physicians & Surgeons
        Other Professional Health Care
             Malpractice
    Other PI/PD/WD (23)
        Premises Liability (e.g., slip
             and fall)
        Intentional Bodily Injury/PD/WD
             (e.g., assault, vandalism)
        Intentional Infliction of
             Emotional Distress
        Negligent Infliction of
             Emotional Distress
        Other PI/PD/WD
Non-PI/PD/WD (Other) Tort
    Business Tort/Unfair Business
       Practice (07)
    Civil Rights (e.g., discrimination, false arrest) (not civil
        harassment) (08)
    Defamation (e.g., slander, libel)
         (13)
    Fraud (16)
    Intellectual Property (19)
    Professional Negligence (25)
        Legal Malpractice
        Other Professional Malpractice
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(not medical or legal)

Other Non-PI/PD/WD Tort (35)

Wrongful Termination (36)

Other Employment (15)

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CASE TYPES AND EXAMPLES
Contract
    Breach of Contract/Warranty (06)
        Breach of Rental/Lease
            Contract (not unlawful detainer
                or wrongful eviction)
        Contract/Warranty Breach-Seller
            Plaintiff (not fraud or negligence)
        Negligent Breach of Contract/
            Warranty
        Other Breach of Contract/Warranty
    Collections (e.g., money owed, open
        book accounts) (09)
        Collection Case-Seller Plaintiff
        Other Promissory Note/Collections
            Case
    Insurance Coverage (not provisionally
        complex) (18)
        Auto Subrogation
        Other Coverage
    Other Contract (37)
        Contractual Fraud
        Other Contract Dispute
Real Property
    Eminent Domain/Inverse
        Condemnation (14)
    Wrongful Eviction (33)
    Other Real Property (e.g., quiet title) (26)
        Writ of Possession of Real Property
        Mortgage Foreclosure
        Quiet Title
        Other Real Property (not eminent
        domain, landlord/tenant, or
        foreclosure)
Unlawful Detainer
    Commerciai (31)
    Residential (32)
    Drugs (38) (if the case involves illegal
        drugs, check this item; otherwise,
        report as Commercial or Residential)
Judicial Review
    Asset Forfe ture (05)
    Petition Re: Arbitration Award (11)
    Writ of Mandate (02)
Writ-Administrative Mandamus
        Writ-Mandamus on Limited Court
           Case Matter
        Writ-Other Limited Court Case
           Review
    Other Judicial Review (39)
        Review of Health Officer Order
        Notice of Appeal-Labor
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Provisionally Complex Civil Litigation (Cal.
Rules of Court Rules 3.400-3.403)
      Antltrust/Trade Regulation (03)
      Construction Defect (10)
      Claims Involving Mass Tort (40)
     Securities Litigation (28)
      Environmental/Toxic Tort (30)
     Insurance Coverage Claims
          (arising from provisionally complex
          case type listed above) (41)
 Enforcement of Judgment
     Enforcement of Judgment (20)
         Abstract of Judgment (Out of
              County)
          Confession of Judgment (non-
              domestic relations)
          Sister State Judgment
         Administrative Agency Award
             (not unpaid taxes)
          Petition/Certification of Entry of
             Judgment on Unpaid Taxes
          Other Enforcement of Judgment Case
 Miscellaneous CivII Complaint
     RICO (27)
     Other Complaint (not specified above) (42)
         Declaratory Relief Only
Injunctive Relief Only (non-
              harassment)
          Mechanics Lien
          Other Commercial Complaint
              Case (non-tort/non-complex)
          Other Civil Complaint
             (non-tort/non-complex)
 Miscellaneous Civil Petition
     Partnership and Corporate
          Governance (21)
      Other Petition (not specified
          above) (43)
          Civil Harassment
          Workplace Violence
          Elder/Dependent Adult
              Abuse
          Election Contest
          Petition for Name Change
          Petition for Relief From Late
              Claim
          Other Civil Petition
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Employment